

**SUPER ONE ADDITION (YOUNG)  
THREE-LOT MINOR SUBDIVISION AND ONE VARIANCE REQUEST**

**STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS**

**CASE PLANNER:** John Lavey *JL*

**REVIEWED/  
APPROVED BY:** Renee Lemon *RL*

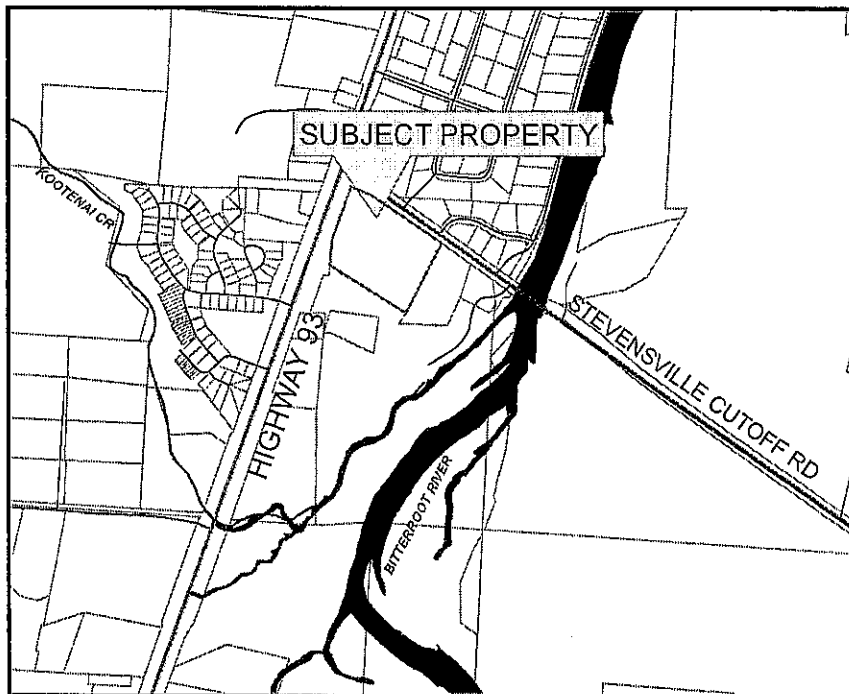
**PUBLIC HEARINGS/  
MEETINGS:** BCC Public Meeting: 9:00 a.m. December 11, 2007  
Deadline for BCC action (35 working days): December 28, 2007

**SUBDIVIDER:** Super One Foods/John Young  
1211 E Columbia Ave.  
Spokane, WA 99208

**OWNER:** Ronald and Joanne McIntire  
5588 N. Wall St  
Spokane, WA 99205-6403

**REPRESENTATIVE:** WGM Group, Inc  
PO Box 16027  
Missoula, MT 59808-6027

**LOCATION OF REQUEST:** The property is located west of Stevensville off Stevensville Cutoff Road and US Highway 93. (See Map 1)



**Map 1: Location Map**  
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION  
OF PROPERTY:**

Tract 1 of COS# 5512-TR, less Highway #556837, located in the SE ¼ of Section 21, T9N, R20W, P.M.M., Ravalli County, Montana.

**APPLICATION  
INFORMATION:**

The subdivision application was determined complete on November 6, 2007. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-16 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.**

**LEGAL NOTIFICATION:**

Notice of the project was posted on the property and adjacent property owners were notified by regular mail postmarked November 6, 2007.

**DEVELOPMENT  
PATTERN:**

Subject property	Commercial
North	Commercial
South	Vacant
East	Commercial
West	Commercial

**INTRODUCTION**

The Super One Addition Minor subdivision is a three-lot split proposed on 12 acres. The Super One grocery store and attached commercial units currently exist on proposed Lot 1. Lots 2 and 3 are proposed for commercial use. Staff understands that a branch of the Ravalli County Bank will be located on proposed Lot 2, and that no specific enterprise has been chosen for Lot 3 at this time.

Concurrent with the subdivision proposal, the subdivider is requesting one variance from Section 5-4-5(b)(2), which would require the developer to construct a hard-surfaced road within the subdivision to serve all lots. A paved parking lot currently exists on the property and is proposed to provide access to all lots within the subdivision, negating the need for a road.

*Staff recommends conditional approval of the variance request and conditional approval of the subdivision proposal.*

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

DECEMBER 11, 2007

SUPER ONE ADDITION

THREE-LOT MINOR SUBDIVISION AND ONE VARIANCE REQUEST

**RECOMMENDED MOTIONS**

1. That the variance request from Section 5-4-5(b)(2) of the Ravalli County Subdivision Regulations, which would require the developer to construct a hard-surfaced road within the subdivision to serve all lots, be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.
2. That the Super One Addition Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

**RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION AND VARIANCE REQUEST**

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

***Limitation of Access onto a Public Road.*** A "no-ingress/egress" restriction exists along the US Highway 93 and Stevensville Cutoff Road frontages of this subdivision, excepting the approved approaches to the parking lot off Stevensville Cutoff Road. All lots within this subdivision must use the approved approaches. This limitation of access may be lifted or amended only with the approval of the Montana Department of Transportation and the Board of Ravalli County Commissioners. *(Effects on Local Services and Public Health and Safety)*

***Notification of Common Roadways Maintenance Agreement.*** The common roadways within the Super One Addition subdivision (parking lots/parking areas, approaches, medians, and other traffic-related infrastructure) are not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Common Roadways Maintenance Agreement was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. *(Effects on Local Services and Public Health and Safety)*

***Notification of Proximity to a Potential Dam Inundation Area in the Event of a Catastrophic Failure of the Painted Rocks Reservoir Dam.*** The eastern portion of the property may be located within the dam inundation area for the Painted Rocks Reservoir Dam. The Painted Rocks Reservoir Dam is owned and operated by the State of Montana, Department of Natural Resources and Conservation District, Water Resources Division, Dam Safety Program (48 North Last Chance Gulch, P.O. Box 201601, Helena, Montana, 59620-1621). A map of the probable extent of the inundation area is included as an exhibit to this document [the subdivider shall include the exhibit as an attachment]. *(Effects on Public Health and Safety)*

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

***Waiver of Protest to Creation of RSID/SID.*** Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community

wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs.  
(*Effects on Local Services*)

**Living with Wildlife.** Owners and/or renters of lots in this commercial subdivision (hereafter, "occupants") must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage and properly storing garbage and other potential attractants. Occupants must be aware of potential problems associated with the presence of wildlife such as deer, black bear, fox, raccoon, skunk, and other species. Please contact the Montana Fish, Wildlife and Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help owners "live with wildlife." Alternatively, see the Education portion of FWP's web site at [www.fwp.mt.gov](http://www.fwp.mt.gov). (*Effects on Wildlife & Wildlife Habitat*)

The following covenants are designed to help minimize problems that occupants could have with wildlife, as well as helping occupants protect themselves, their property and the wildlife that Montanans value.

- (a) Occupants must be aware of the potential for **vegetation damage by wildlife, particularly from deer** feeding on landscaping--green lawns, flowers, ornamental shrubs and trees--in this subdivision. Occupants should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- (b) **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, and other wildlife.
- (c) **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposefully or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in an "artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, occupants should be aware that deer might occasionally attract mountain lions to the area.

**Lighting for New Construction.** To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit [www.darksky.org](http://www.darksky.org). (*Effects on Natural Environment and Wildlife and Wildlife Habitat*)

**Radon Exposure.** The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their structures tested for radon. Contact

the Ravalli County Environmental Health Department for further information. *(Effects on Public Health & Safety)*

**Control of Noxious Weeds.** A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. *(Effects on Agriculture and Natural Environment)*

**Commercial Use Only.** For as long as the interim zoning regulation recorded by the Ravalli County Commissioners as Resolution 2038 remains in effect, residential development shall be prohibited and the lots shall be used for commercial purposes exclusively. Upon the expiration of the emergency zoning regulation, this requirement shall cease. However, if the interim zoning ceases through the adoption of permanent zoning, those regulations shall then be in effect. *(Compliance with Applicable Zoning Regulations)*

**Posting of County-Issued Addresses for Lots within this Subdivision.** The Stevensville Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the accessway leading to each lot as soon as construction on the structure begins. *(Effects on Local Services and Public Health & Safety)*

**Access Requirements for Lots within this Subdivision.** The Stevensville Rural Fire District has adopted the Fire Protection Standards. All accesses over 150' in length must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Stevensville Rural Fire District for further information. *(Effects on Local Services and Public Health & Safety)*

**State Commercial Building Standards.** The State of Montana has building codes for commercial buildings. For more information, contact the Montana Department of Labor and Industry, at PO Box 1728, Helena, MT 59624-1728 or call 406-444-2840. *(Effects on Local Services and Public Health & Safety)*

**Amendment.** Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*
4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Stevensville Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution

for Lots 2 and 3 has been made to the Stevensville Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Effects on Local Services and Public Health & Safety)*

6. The final plat shall show a no-ingress/egress zone along the US Highway 93 and Stevensville Cutoff Road frontages of the subdivision, excepting the approved approaches to the parking lot off Stevensville Cutoff Road, as approved by the Montana Department of Transportation. *(Effects on Local Services and Public Health and Safety)*
7. Stop signs and road name signs shall be installed at the intersection of all accesses with Stevensville Cutoff Road prior to final plat approval. *(Effects on Local Services and Public Health and Safety)*
8. The subdivider shall submit an (amount)-per-unit contribution for Lots 2 and 3 to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services prior to final plat approval. *(Effects on Local Services and Public Health & Safety)*
9. The following statement shall be shown on the face of the final plat: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". *(Effects on the Natural Environment)*
10. Prior to final plat approval, the accessways to Lots 2 and 3 shall be constructed as approved by the Road and Bridge Department. Prior to construction, the final parking lot plans are required to be reviewed and approved by the Road and Bridge Department. Post construction, the Road and Bridge Department will conduct a final review. Please see the Road and Bridge Department's Policies on Subdivision Assessment Coordination and Tests & Specifications for Subdivision Infrastructure Improvements for more information. *(Variance, and Effects on Local Services and Public Health and Safety)*

#### **FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)**

*The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.*

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied.
2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. The features listed in RCSR Section 3-4-4(a)(ii) are required on the Final Plat. Following are specific features related to this subdivision:
  - a) Existing and proposed utility easements, as shown on the preliminary plat, shall be shown on the final plat.
  - b) No ingress/egress zones along US Highway 93 and Stevensville Cutoff Road, excepting the approved approaches off Stevensville Cutoff Road.
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
4. Any variance decisions shall be submitted with the final plat submittal.
5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
6. The final plat review fee shall be submitted with the final plat submittal.

7. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
12. Road and Driveway approach and encroachment permits from RCRBD and/or MDOT as appropriate.
13. Final Road Plans and Grading and Storm Water Drainage Plan for the parking lot areas shall be submitted with the final plat submittal.
14. Utility availability certification(s) shall be submitted with the final plat submittal.
15. A Common Roadways Maintenance Agreement, signed and notarized, shall be submitted with the final plat submittal.
16. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
17. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
18. A copy of the letter sent to the School District stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
19. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2).
  - a. Specific infrastructure improvements required for this subdivision are the installation of stop signs and road name signs at the intersection of all accesses with Stevensville Cutoff Road, and the construction of the accessways to Lots 2 and 3 as shown on the preliminary plat and as approved by the Road and Bridge Department.

## **SUBDIVISION REPORT**

### **COMPLIANCE WITH PREREQUISITES TO APPROVAL**

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

#### **A. Provides easements for the location and installation of any planned utilities.**

##### Findings of Fact

1. Existing utilities are located along the US Highway 93 and Stevensville Cutoff Road frontages of the subdivision. (Super One Addition Preliminary Plat Application)
2. An existing 10-foot wide highway lighting right-of-way is located along the Stevensville Cutoff Road frontage of proposed Lot 1. (Super One Addition Preliminary Plat Application)
3. A proposed 20-foot wide utility easement will traverse the western portion of proposed Lot 1 to provide utilities to proposed Lots 2 and 3. (Super One Addition Preliminary Plat Application)
4. A "cross-easement" exists for the subject property that allows access to the entirety of the site for, among many other things, lighting facilities. (Document #222967, Super One Addition Preliminary Plat Application)
5. *Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)*

##### Conclusion of Law

The proposed subdivision application provides for utility easements.

#### **B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.**

##### Findings of Fact

1. The subject property is accessed by US Highway 93 and Stevensville Cutoff Road, and the internal access network (existing and any proposed parking areas/accessways). (Super One Addition Preliminary Plat Application)
2. US Highway 93 and Stevensville Cutoff Road provide legal and physical access to the site. (Super One Addition Preliminary Plat Application)
3. A "cross-easement" exists for the subject property that provides legal access to the site. The "cross-easement" provides for a "non-exclusive easement for pedestrian and vehicular ingress, egress, passage and traffic in, over, upon, across and through the entire parcel for the orderly development thereof". The "cross-easement" is of perpetual duration. (Document #222967, Super One Addition Preliminary Plat Application)
4. A Common Roadways Agreement outlines what parties are responsible for maintaining the accessways within the subdivision. (Super One Addition Preliminary Plat Application)
5. The applicant is proposing to construct a paved extension from the existing parking lot to provide physical access to Lot 2 and 3. (Super One Addition Preliminary Plat Application)
6. *To ensure physical access to Lots 2 and 3, the final parking lots plans shall be reviewed and approved by the Road and Bridge Department, the parking lot shall be constructed, and the Road and Bridge Department shall approve the construction. (Final Plat Requirement 13, Road and Bridge Department Policies on Subdivision Assessment Coordination and Tests & Specifications for Subdivision Infrastructure Improvements, and Condition 10)*



Conclusion of Law

Legal and physical access will be provided on US Highway 93, Stevensville Cutoff Road, and the internal parking areas/accessways.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Findings of Fact

1. To mitigate impacts on public health and safety, the applicant is required to install stop signs and road name signs at the intersection of Stevensville Cutoff Road and each access to the subdivision before final plat approval. (Condition 7)
2. The applicant is proposing to construct the accessways to Lots 2 and 3 as proposed in the parking lot plans that have been preliminarily approved by the Ravalli County Road and Bridge Department. (Super One Addition Preliminary Plat Application)
3. The applicant is required to submit evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval. (Section 3-4-4(a)(xxvi), RCSR)

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

The property does not have water rights. (Super One Preliminary Plat Application)

Conclusion of Law

Since there are no water rights, this requirement has been met.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

There are no irrigation easements on the property. (Super One Preliminary Plat Application)

Conclusion of Law

Since there are no irrigation easements, this requirement has been met.

- F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

Findings of Fact

1. All lots within the subdivision are proposed for commercial use. (Super One Preliminary Plat Application)
2. Park dedication may not be required for subdivisions where all parcels are proposed for non-residential use. (MCA Section 76-3-621(3)(b))

Conclusion of Law

Since this is a commercial subdivision, no parkland is required.

## **G. Overall Conclusion on Prerequisite Requirements**

With the conditions and requirements of final plan approval, there is credible evidence that the subdivision application meets the prerequisite requirements.

## **COMPLIANCE WITH APPLICABLE REGULATIONS**

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

### **A. These regulations, including, but not limited to, the standards set forth in Chapter 5.**

#### **Findings of Fact**

1. The subdivider is requesting a variance from 5-4-5(b)(2), for relief from constructing a chip-sealed internal road. The subdivider is proposing to expand the existing park lot and accessways to serve Lots 2 and 3. Staff is recommending conditional approval of the variance. (Super One Preliminary Plat Application and Planning Staff's Variance Report)
2. With variance approval, the lot layout as indicated on the preliminary plat meets the design standards in Chapter 5 of the RCSR. (Super One Addition Subdivision File)
3. This development plan proposal has followed the necessary application procedures and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. (Super One Subdivision File)

#### **Conclusions of Law**

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision as outlined in Chapter 3 of the RCSR, have been followed.

### **B. Applicable zoning regulations.**

#### **Findings of Fact**

1. The subject property is under the jurisdiction of the interim zoning regulation limiting residential subdivisions to a density of one dwelling per two acres. (Resolution 2038).
2. The subdivider will be subject to a commercial covenant to restrict all uses within the subdivision to commercial use only. (*Condition 2*)
3. The property is not within one of the voluntary zoning districts in Ravalli County. (Super One Addition Preliminary Plat Application)

#### **Conclusion of Law**

With the condition requiring a commercial covenant, this proposal complies with existing zoning regulations.

### **C. Existing covenants and/or deed restrictions.**

#### **Finding of Fact**

There are existing covenants on the property included in document #222967 that pertain to provisions for access and use restrictions on the parcel. (Super One Addition Preliminary Plat Application)

#### **Conclusion of Law**

The proposal complies with existing covenants

### **D. Other applicable regulations.**

#### **Findings of Fact**

1. Following are applicable regulations:

- Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
  - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
  - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
  - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
  - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

#### Conclusion of Law

With the requirements of final plat approval, the application will meet all of the applicable regulations.

### **E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:**

#### **CRITERION 1: EFFECTS ON AGRICULTURE**

##### Findings of Fact:

1. The proposed minor subdivision on 12 acres will result in three lots that range in size from 1.05 acres to 9.09 acres. The property is located approximately 1 mile northwest of the community of Stevensville off U.S. Highway 93. (Super One Addition Preliminary Plat Application)
2. The property is not adjacent to other agricultural properties. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services and 2005 Aerial Photography created by the National Agricultural Imagery Program)
3. The property has not been used for agricultural purposes for over a decade. (Super One Addition Preliminary Plat Application)
4. The existing Super One grocery store provides an opportunity for local agricultural producers to sell their products. (Super One Addition Preliminary Plat Application)
5. There is a soil type type listed as Farmland of Local Importance on approximately 30% of the property (Map Unit 305B). There is no prime farmland or farmland of statewide importance on the property. (*Web Soil Survey for Ravalli County*, Natural Resources and Conservation Service (NRCS))
6. *Following are conditions and requirements of final plat approval that will help mitigate the impacts of the subdivision on agriculture:*
  - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
  - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

##### Conclusion of Law:

Impacts of the subdivision on surrounding agriculture will be minimal.

#### **CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES**

##### Finding of Fact

According to the application, there are no water rights or irrigation infrastructure currently associated with this property.

##### Conclusion of Law:

This subdivision will have no significant impacts on agricultural water user facilities.

### **CRITERION 3: EFFECTS ON LOCAL SERVICES**

#### **Findings of Fact:**

##### **Fire Department**

1. The subdivision is located within the Stevensville Rural Fire District. (Super One Addition Preliminary Plat Application)
2. The All Valley Fire Council, which includes the Stevensville Rural Fire Department, has adopted Fire Protection Standards (outlined in document from the Hamilton Rural Fire Department) that address access, posting of addresses, and water supply requirements. (Exhibit A-16)
3. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
  - *Provisions in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
  - *The covenants shall include a recommendation that the commercial buildings within this subdivision are built to meet state building code standards. For more information, contact the Montana Department of Labor and Industry, at PO Box 1728, Helena, MT 59624-1728 or call 406-444-2840. (Condition 2)*
  - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*
  - *Prior to final plat approval, the subdividers shall provide a letter from the Stevensville Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution for Lots 2 and 3 has been made to the Stevensville Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*

##### **School District**

4. Because all lots within the subdivision are proposed for commercial purposes, the Stevensville School District will be affected. (Super One Addition Preliminary Plat Application)

##### **Public Safety**

5. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Super One Addition Preliminary Plat Application)
6. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on August 29, 2007 and November 6, 2007, but no comments have been received from the Sheriff's Office. (Super One Addition Subdivision File)
7. This proposed subdivision is located 19 miles from the Sheriff dispatch in Hamilton and approximately 1 mile from a dispatch substation in Stevensville. (Super One Addition Preliminary Plat Application)
8. The applicant is not proposing a contribution to the Sheriff's Office, E-911, or the Department of Emergency Services. (Super One Addition Preliminary Plat Application)
9. There are three proposed commercial lots within this subdivision. It is estimated at build-out that this subdivision could generate a total of 575 to 875 vehicular trips per day, assuming 375 trips per day for the proposed bank and between 200 to 500 trips per day for Lot 3. (Super One Addition Preliminary Plat Application)
10. *To mitigate the impacts of the additional people that the commercial businesses on Lots 2 and 3 will serve on public safety services, the subdivider shall submit an (amount)per-lot contribution for Lots 2 and 3 to the Ravalli County Treasurer's Office to be deposited into account for Public Safety Services prior to final plat approval. (Condition 8)*

#### Emergency Services

11. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department or Missoula Emergency Services. Marcus Daly and Missoula Emergency Services were contacted, but no comments have been received to date. (Super One Addition Subdivision File)
12. *To mitigate impacts on emergency services, the subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*

#### Water and Wastewater Districts

13. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Super One Preliminary Plat Application)
14. *Final plat requirement 9 will ensure that the DEQ has reviewed the proposed wastewater treatment systems in accordance with their regulations.*

#### Solid Waste Services

15. Bitterroot Disposal provides service to this site. (Super One Addition Preliminary Plat Application)
16. Notification letters were sent to Bitterroot Disposal requesting comments on August 29, 2007 and November 6, 2007, but no comments have been received. (Super One Addition Subdivision File)

#### Utilities

17. The proposed subdivision will be served by Northwestern Energy, Ravalli Electric Cooperative, and Qwest Communications. Utility companies have been notified of the proposed subdivision. (Super One Addition Preliminary Plat Application)
18. Notification letters were sent to the utility companies requesting comments on August 29, 2007 and November 6, 2007. No comments have been received by either power company. Qwest provided a comment to the subdivider that telecommunications service will be provided to the development. (Subdivision File and Application)
19. *The following requirements will mitigate impacts of the subdivision on local utilities:*
  - *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
  - *The applicant shall submit utility availability certifications from Northwestern Energy, Ravalli Electric Cooperative, and Qwest Communications prior to final plat approval. (Final Plat Requirement 14)*

#### Roads

20. There are three proposed commercial lots within this subdivision. It is estimated at build-out that this subdivision could generate a total of 575 to 875 vehicular trips per day, assuming 375 trips per day for the proposed bank and between 200 to 500 trips per day for Lot 3. (Super One Addition Preliminary Plat Application)
21. US Highway 93 and Stevensville Cutoff Road, a State road maintained by the County, provide access to the site. (Super One Addition Preliminary Plat Application)
22. The applicant is not required to improve or pay pro rata towards improving State-maintained roads. (Section 5-4-5, RCSR)
23. There is a proposed Common Roadways Maintenance Agreement for the internal parking areas/driving lanes. (Super One Addition Preliminary Plat Application)
24. The applicant is not proposing stop signs or road name signs at the intersections of the parking lot accesses with Stevensville Cutoff Road. (Super One Addition Preliminary Plat Application)

25. The parking lot plans have received preliminary approval from the Ravalli County Road and Bridge Department. (Exhibit A-9)
26. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
- *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval, if applicable. (Final Plat Requirement 10)*
  - *The accessways to Lots 2 and 3 shall be constructed as proposed in the parking lot plans preliminarily approved by the Ravalli County Road and Bridge Department. The final parking lot plans and actual construction shall be approved by the Ravalli County Road and Bridge Department prior to final plat approval. (Condition 10, Final Plat Requirement 13)*
  - *A Common Roadways Maintenance Agreement shall be signed, notarized, and submitted for the internal parking areas and accessways. (Final Plat Requirement 15)*
  - *A notification of the Common Roadways Maintenance Agreement for the internal parking areas and accessways shall be included in the notifications document filed with the final plat. (Condition 1)*
  - *The Common Roadways Maintenance Agreement shall state that other parcels that may have beneficial use of the internal parking areas and accessways shall be allowed to join as members of the agreement without the consent of the current members. (Condition 8)*
  - *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
  - *Stop signs and road name signs shall be installed prior to final plat approval. (Condition 7 and Final Plat Requirement 19)*
  - *The final plat shall show a no-ingress/egress zone along the US Highway 93 and Stevensville Cutoff Road frontages of the subdivision, excepting the approved approaches to the parking lot off Stevensville Cutoff Road, as approved by the Montana Department of Transportation. (Conditions 1 and 6 and Final Plat Requirement 2)*
  - *The applicant shall submit a final approved approach permit from the Montana Department of Transportation prior to final plat approval. (Final Plat Requirement 12)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

**CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT**

Findings of Fact:

Water Quality

1. There are permits from the Ravalli County Environmental Health Department for the existing drain fields currently serving the Super One grocery store on proposed Lot 1. (Septic permit #8947-E and #10482-R – Super One Addition Application)
2. The applicants are proposing individual wells and wastewater treatment facilities for Lots 2 and 3. The applicants submitted water and sanitation information per MCA 76-3-622 for the proposed systems. (Super One Addition Preliminary Plat Application)
3. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Application, MCA 76-3-622)
4. The Bitterroot River is located approximately 850 feet east of the subject property. The subject property is not within the 100 year floodplain of the river. (Ravalli County GIS Department data)
5. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

#### Light Pollution

6. The addition of businesses in this area has the potential to increase light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark Sky Association)
7. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

#### Vegetation

8. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that indicates spotted knapweed and houndstongue are growing on the property. (Super One Addition Preliminary Plat Application)
9. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (MCA 7-22-2152)
10. *To mitigate impacts on natural environment, the following items will be required for final plat approval:*
  - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
  - *The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision. (Final Plat Requirement 11)*

#### Historical/Archeological Sites

8. There are no known sites of historical significance on the property. (Super One Addition Preliminary Plat Application)
9. *To ensure that any possible historical sites are preserved, the following statement shall be shown on the final plat: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 9)*

#### Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

#### **CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT**

##### Findings of Fact:

1. In a letter received June 5, 2006, FWP stated that this property has a general likelihood of human/wildlife conflict and recommended including "living with wildlife" covenants. (Super One Addition Preliminary Plat Application)
2. The property is not located within big-game winter range. (FWP)
3. According to the Montana Natural Heritage Program, the Bald Eagle was identified as a species of concern that could exist in the same section as the proposal. The subdivider requested and received a waiver from the requirement to submit a sensitive species report for the bald eagle because of lack of habitat on the property for the species. (Exhibit A-1 and Super One Addition Subdivision File)
4. *To mitigate impacts on wildlife, the following conditions shall be met:*
  - *The covenants shall include a living with wildlife section. (Condition 2)*
  - *The protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

#### Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts on Wildlife & Wildlife Habitat will be reduced.

#### **CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY**

##### Findings of Fact:

##### Traffic Safety

1. Access is proposed off Stevensville Cutoff Road from US Highway 93. (Super One Addition Preliminary Plat Application)
2. *The requirements and conditions listed under Roads in Criterion 3 (Effects on Local Services) will mitigate the impacts of the subdivision on traffic safety.*

##### Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Stevensville Rural Fire District, the Ravalli County Sheriff's Office, Ravalli County E-911, and the Ravalli County Department of Emergency Services, Missoula Emergency Services, and Marcus Daly Memorial Hospital EMS Department. (Super One Addition Preliminary Plat Application)
4. The "cross-easement" filed as document #222967 provides for fire protection and emergency ingress and egress to and from the buildings on the property. (Super One Addition Preliminary Plat Application)
5. *The requirements and conditions listed under Fire Department, Public Safety, Emergency Services, and Roads in Criterion 3 (Effects on Local Services) will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

##### Water and Wastewater

6. There is an existing wastewater treatment facility and public water supply that have been permitted and serve the Super One grocery on proposed Lot 1. The applicants are proposing individual wells and wastewater facilities to serve Lots 2 and 3. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Super One Addition Preliminary Plat Application and Exhibit A-17)
7. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

##### Natural and Man-Made Hazards

8. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
9. A portion of the southeast corner of the property may be located within the Painted Rocks Dam inundation area. (Ravalli County GIS department data)
10. *To mitigate impacts on the public's health and safety, the following conditions shall be met:*
  - *The covenants shall include a statement regarding radon exposure. (Condition 2)*
  - *The protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
  - *The notifications document shall include a statement regarding the proximity of the Painted Rocks Dam inundation area. (Condition 1)*

#### Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.





## **VARIANCE REQUEST**

The subdivider has requested a variance from Section 5-4-5(b)(2), which would require the developer to construct a hard-surfaced road within the subdivision to serve all lots.

### **Variance Analysis**

Section 7-3-5(a), RCSR, outlines two sets of criteria to be used in analyzing a variance request.

#### **Prerequisite Variance Criteria**

In order for a variance to be considered for approval, the BCC must first determine that the variance request meets these stipulations:

1. Strict compliance with these regulations will result in undue hardship.
2. Compliance is not essential to the public welfare.

#### **Variance Review Criteria**

If and only if a positive determination is made on both of the prerequisite criteria, the BCC may then consider the variance for approval, based on the five variance review criteria:

- A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.
- B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.
- C. Physical conditions, such as topography or parcel shape, prevent the subdivider from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).
- D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.
- E. The variance will not cause a substantial increase in public costs.

Both sets of criteria were reviewed simultaneously. Findings for Prerequisite Criterion #1 are based on an analysis of Variance Review Criteria B and C. Findings for Prerequisite Criterion #2 are based on an analysis of Variance Review Criteria A, D, and E.

### **Five Variance Review Criteria**

**A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.**

#### **Findings of Fact:**

1. The applicant is proposing to expand the existing parking lot to provide accessways to both Lots 2 and 3. (Super One Addition Preliminary Plat Application)
2. The parking lot plans have received preliminary approval from the Ravalli County Road and bridge Department. (Exhibit A-9)
3. A paved parking lot currently exists on the subject property, and a "cross-easement" allows for unimpeded access to the entirety of the site. Additionally, existing pavement markings direct the flow of traffic through the property, facilitating the safe movement of vehicles. (Super One Preliminary Plat Application, Site Visit)
4. In an email dated August 27, 2007, David Ohnstad stated that he agreed that the granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties. (Exhibit A-11)
5. *To mitigate impacts of granting the variance on public health and safety, and adjoining properties, the following condition and requirement shall be met prior to final plan approval:*

- *Prior to final plat approval, the accessways to Lots 2 and 3 shall be constructed as approved by the Road and Bridge Department. Prior to construction, the final parking lot plans are required to be reviewed and approved by the Road and Bridge Department. Post construction, the Road and Bridge Department will conduct a final review. Please see the Road and Bridge Department's Policies on Subdivision Assessment Coordination and Tests & Specifications for Subdivision Infrastructure Improvements for more information. (Condition 10 and Final Plat Requirement 13)*
- *Existing and proposed utility easements, as shown on the preliminary plat, shall be shown on the final plat. (Final Plat Requirement 2)*

Conclusion of Law:

With the condition and requirement of variance approval, the granting of the variance will not be substantially detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.

**B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.**

Findings of Fact

1. The parking lot was constructed in 1998 for the purpose of providing access to the Super One grocery store and attached commercial units. (Super One Preliminary Plat Application)
2. According to construction specifications, the existing parking lot is made of four inches of  $\frac{3}{4}$ " minus crushed base course with three inches of asphalt surfacing course grade "B". (Super One Addition Preliminary Plat Application)
3. The Ravalli County Subdivision Regulations require that the applicant construct a road to serve Lots 2 and 3. The Regulations do not have standards for parking lots. (Section 5-4-5, RCSR)
4. In a conversation with David Ohnstad, Ravalli County Road and Bridge Department Supervisor, on November 8, 2007, planning staff learned that, while chip-sealing a road does increase the longevity of the travel surface, it does not last as long as a travel surface constructed to the specifications of the existing parking lot. (Conversation with David Ohnstad)
5. A "cross-easement" was filed with the Clerk and Records office in August of 1997 that clearly contemplated the future use of the property as providing multiple spaces for commercial enterprises. (Super One Addition Preliminary Plat Application)
6. In an email dated August 27, 2007, David Ohnstad stated that the Road and Bridge department would not oppose the granting of the variance with the information submitted in the application. (Exhibit A-11)
7. *As a condition of final plat approval, the accessways to Lots 2 and 3 shall be constructed as approved by the Road and Bridge Department. Prior to construction, the final parking lot plans are required to be reviewed and approved by the Road and Bridge Department. Post construction, the Road and Bridge Department will conduct a final review. Please see the Road and Bridge Department's Policies on Subdivision Assessment Coordination and Tests & Specifications for Subdivision Infrastructure Improvements for more information. (Condition 10)*

Conclusion of Law:

The conditions upon which the variance is proposed are unique to the property.

**C. Physical conditions, such as topography or parcel shape, prevent the subdivider from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).**

Finding of Fact:

The parking lot is an existing physical condition that resulted from the past actions of the lands current or previous owner(s). (Super One Addition Preliminary Plat Application)

#### Conclusion of Law:

Physical conditions do not prevent the subdivider from meeting the strict letter of the regulations.

#### **D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.**

##### Findings of Fact:

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres. The application complies with the interim zoning regulation. (Resolution 2038)
2. Relevant countywide provisions in the Ravalli County Growth Policy are outlined below. Provisions of the Ravalli County Growth Policy are followed by an analysis (bulleted points) of the variance request against these provisions.

**Countywide Goal 4:** Provide necessary infrastructure and public services to accommodate population growth and new development without undue impacts on the quality, quantity and cost of service to existing residents.

**Countywide Policy 4.4:** Improve and maintain existing infrastructure and public services.

- The parking lot serving the Super One Foods grocery store has been maintained for over a decade. The parking lot is proposed to provide primary access to each lot within the subdivision. Additionally, the subdivider is proposing to improve portions of the parking area by constructing new paved approaches from the edge of the existing parking area to each new lot. (Super One Addition Preliminary Plat Application)
- *As a condition of final plat approval, the accessways to Lots 2 and 3 shall be constructed as approved by the Road and Bridge Department. Prior to construction, the final parking lot plans are required to be reviewed and approved by the Road and Bridge Department. Post construction, the Road and Bridge Department will conduct a final review. Please see the Road and Bridge Department's Policies on Subdivision Assessment Coordination and Tests & Specifications for Subdivision Infrastructure Improvements for more information. (Condition 10)*

**Countywide Policy 4.5:** Developers will be responsible for providing the infrastructure necessary within the development such as water, sewage treatment and roads. A system of "nexus and proportionality" will govern external infrastructure costs.

- The developer is proposing to construct new paved approaches from the edge of the existing parking area to the newly created lots. (Super One Addition Preliminary Plat Application)
- *As a condition of final plat approval, the accessways to Lots 2 and 3 shall be constructed as approved by the Road and Bridge Department. Prior to construction, the final parking lot plans are required to be reviewed and approved by the Road and Bridge Department. Post construction, the Road and Bridge Department will conduct a final review. Please see the Road and Bridge Department's Policies on Subdivision Assessment Coordination and Tests & Specifications for Subdivision Infrastructure Improvements for more information. (Condition 10)*

**Countywide Goal 6:** Promote and encourage a vibrant, sustainable, healthy economic environment that recognizes existing businesses and attracts new entrepreneurs.

**Countywide Policy 6.3:** Support development of business parks.

- The subdivider has proposed creating two additional commercial lots in an area of existing commercial development. (Super One Addition Preliminary Plat Application)

**Countywide Policy 6.8:** Encourage expansion of existing businesses and business recruitment efforts, which maintain and create better-paying jobs.

- Lot 2 is the proposed home of a branch of the Ravalli County Bank, which was founded in 1895 by Marcus Daly (<http://www.ravallibank.com/>). (Super One Addition Preliminary Plat Application)

#### Conclusions of Law:

1. The proposal complies with the interim zoning regulation.
2. Provisions in the Growth Policy appear to support granting the variance request.

#### **E. The variance will not cause a substantial increase in public costs.**

##### Findings of Fact:

1. The road improvement costs associated with not approving the variance would simply be passed on to consumers. (Super One Addition Preliminary Plat Application)
2. In an email dated August 27, 2007, David Ohnstad stated that he agreed that the granting of the variance will not cause a substantial increase in public costs. (Exhibit A-11)
3. *As a condition of final plat approval, the accessways to Lots 2 and 3 shall be constructed as approved by the Road and Bridge Department. Prior to construction, the final parking lot plans are required to be reviewed and approved by the Road and Bridge Department. Post construction, the Road and Bridge Department will conduct a final review. Please see the Road and Bridge Department's Policies on Subdivision Assessment Coordination and Tests & Specifications for Subdivision Infrastructure Improvements for more information. (Condition 10)*

#### Conclusion of Law:

The granting of the variance does not appear to substantially increase public costs.

#### **Prerequisite Variance Criteria**

##### **A. Strict compliance with these regulations will result in undue hardship.**

##### Findings of Fact:

1. The application states that a parking lot currently exists on the subject property, and that the parking lot will provide access to all lots within the subdivision. The parking lot is composed of four inches of  $\frac{3}{4}$ " minus crushed base course with three inches of asphalt surfacing course grade "B". Short accessways will be constructed to provide physical access to Lots 2 and 3. The accessways will meet the same construction standards as the existing parking lot. (Super One Preliminary Plat Application)
2. The variance application states that strict compliance with the subdivision regulations would require the removal of an existing paved travel surface currently designed to simultaneously accommodate large delivery trucks and passenger cars. (Super One Preliminary Plat Application)
3. The Ravalli County Subdivision Regulations do not include provisions for parking lots. (RCSR)
4. Criteria B and C of the variance criteria under Part 2 below were used to determine whether or not there is a hardship. There appear to be special conditions unique to this subdivision that would not necessitate strict compliance with the regulations.

##### Conclusion of Law:

Strict compliance with these regulations will result in undue hardship.

##### **B. Compliance is not essential to the public welfare.**

##### Finding of Fact:

Criteria A, D, and E of the variance criteria under Part 2 below can be used to determine whether or not compliance with Section 5-4-5(d) is essential to public welfare.

Conclusion of Law:

Compliance is not essential to the public welfare.

**C. Overall Findings and Conclusions on Hardship and Public Welfare**

Findings of Fact

1. Strict compliance with these regulations will result in undue hardship.
2. Compliance is not essential to the public welfare.

Conclusion of Law

The variance application provides evidence that there is an undue hardship and that compliance with the RCSR is not essential to the public welfare.



RECEIVED

MAY 0 2006  
10-06-05-700  
Ravalli County Planning Dept.

ENGINEERING  
SURVEYING  
PLANNING

3021 Palmer • P.O. Box 16027 • Missoula, Montana 59808-6027

(406) 728-4611  
FAX: (406) 728-2476  
wgmgroup.com

May 3, 2006

*OK per email  
Kpt*

Karen Hughes  
Planning Director  
Ravalli County Planning Department  
215 South 4<sup>th</sup> Street, Suite F  
Hamilton, MT 59840

## EXHIBIT A-1

RE: Request for Waiver of Sensitive Species Report on Super One Subdivision

Dear Karen:

On behalf of the owner and subdivider of the Super One property in Stevensville, we are writing to request a waiver from preparing a Sensitive Species Report for the proposed subdivision. At our pre-application meeting with Renee Van Hoven on March 29<sup>th</sup>, we were informed that according to an older publication of the Montana Natural Heritage Society this area is identified as bald eagle habitat.

Bald eagles typically nest in large trees or snags, usually near large water bodies with relatively little human disturbance. Foraging areas usually include lakes and rivers where fish and waterfowl provide a prey base. Eagles are opportunistic foragers and major food items are variable throughout the year. Scavenging, especially during winter, includes road kill, dead livestock and big game, and crippled waterfowl. There is a general transition to fish and small mammals, such as ground squirrels, during the spring and early summer.

The Super One Subdivision is located at the intersection of the Stevensville Cutoff Road and U.S. Highway 93 – a very busy intersection with a fair degree of human disturbance. While the Bitterroot River is approximately 500 feet from the southeastern corner of the project site, there are commercial properties entirely surrounding this property. Bald eagles nest and forage along the Bitterroot River throughout the year, however, this property contains no nests or communal roost sites, nor does it provide adequate habitat in which the bald eagle would find food.

Thank you for your consideration of this waiver request. Please let us know if you have any questions or need any additional information.

Sincerely,  
WGM Group, Inc.

Kristin N. Smith  
Land Use Planner

**Tristan Riddell**

---

**From:** Karen Hughes  
**Sent:** Tuesday, May 23, 2006 10:29 AM  
**To:** Tristan Riddell  
**Cc:** Renee Van Hoven  
**Subject:** RE: Sensitive Species Report Waiver Request

Regarding the sensitive species report waiver request for the Super 1 Subdivision:

Finding from the Kootenai Creek Village subdivision report: Mr. Nielsen stated that he surveyed the property for evidence of bald eagle nesting activity and the potential of Kootenai Creek serving as a fishery for the bald eagle. The closest eagle nest was found on the Bitterroot River, approximately five miles from the subdivision and the stream would not serve as a fishery because of its steep gradient.

In addition to the finding above: The Super 1 Subdivision is located across US Highway 93 to the east of the Kootenai Creek Village Subdivision and it is closer to the Bitterroot River. However, if the nearest eagle nest is approximately five miles away, it appears that a sensitive species report is not warranted for this subdivision. The waiver request is granted.

Please forward this information to Kristin Smith at WGM Group.

Karen  
Karen Hughes, AICP  
Ravalli County Planning Department  
215 S. 4th Street Ste F  
Hamilton, MT 59840  
Phone (406) 375-6530  
Fax (406) 375-6531  
[khughes@ravallicounty.mt.gov](mailto:khughes@ravallicounty.mt.gov)

---

**From:** Tristan Riddell  
**Sent:** Tuesday, May 23, 2006 8:35 AM  
**To:** Karen Hughes  
**Subject:** Sensitive Species Report Waiver Request

Karen,  
Renee and I discussed the request for a waiver from a sensitive species report for the Super One Subdivision in Stevensville regarding the presence of bald eagle. We came to the conclusion that based on current use of the property the waiver should be granted, as the Super One lot does not seem to be prime bald eagle habitat. I have placed the waiver request in your box.

Thanks.

Tristan Riddell  
Ravalli County Planning Department  
215 S. 4th St., Suite F  
Hamilton, MT 59840  
Phone (406) 375-6530  
Fax (406) 375-6531  
[triddell@ravallicounty.mt.gov](mailto:triddell@ravallicounty.mt.gov)

5/23/2006



-----Original Message-----

**From:** Renee Van Hoven  
**Sent:** Tuesday, May 23, 2006 8:13 AM  
**To:** triddell@ravallicounty.mt.gov  
**Subject:** FW: Phone message from Kristin Smith

Do you know anything about this? Can you call her back?

Renee Van Hoven  
Ravalli County Planning Department  
215 S. 4th St., Suite F  
Hamilton, MT 59840  
(406)375-6530  
[rvanhoven@ravallicounty.mt.gov](mailto:rvanhoven@ravallicounty.mt.gov)

---

**From:** Jennifer DeGroot  
**Sent:** Monday, May 22, 2006 3:42 PM  
**To:** Karen Hughes  
**Subject:** Phone message from Kristin Smith

Karen,

Kristin Smith called around 3:30 regarding the sensitive species report waiver for Super One. I'm not sure who has that subdivision. 728-4611

Jennifer De Groot  
Ravalli County Planning Department  
215 S 4th Street, Suite F  
Hamilton, MT 59840  
(406) 375-6530

RECEIVED

1515 S. 14th Street West  
Missoula, Montana 59801

May 23, 2006

MAY 24 2006  
IC-06-05-814  
Ravalli County Planning Dept.



## EXHIBIT A-2

Kristin Smith  
WGM Group, Inc.  
P.O. Box 16027  
Missoula, MT 59808-6027

Dear Ms. Smith:

RE: SuperOne Subdivision

Thank you for the information on the proposed 3-lot SuperOne Subdivision located at the intersection of U S Highway 93 & Stevensville Cutoff Road in Stevensville, MT. Qwest Communications will provide telecommunications service to this development at no cost to the developer for the provision of the required facilities.

If you have any additional questions or information, please call me on 406 543-2175.

Sincerely,

Dave Smith  
Senior Design Engineer  
1515 South 14<sup>th</sup> West  
Missoula, MT 59801-4927

cc: Ravalli County Planning Ofc



# **Montana Fish, Wildlife & Parks**

## **EXHIBIT A-3**

Region 2 Office  
3201 Spurgin Road  
Missoula, MT 59804-3099  
406-542-5500  
June 5, 2006

Kristin Smith  
WGM Group, Inc.  
PO Box 16027  
Missoula, MT 59808-6027

Dear Ms. Smith:

Reference: Super One--Proposed minor (3 lots on 12.1 acres) commercial subdivision,  
west of Stevensville on US Highway 93

We have reviewed the preliminary plat and topographic map for this subdivision, and our comments follow.

Although this proposed subdivision is located along US Highway 93, it is about one-tenth mile west of the Bitterroot River and its associated riparian areas. We believe there is general likelihood of human/wildlife interactions at this location. In particular, wildlife such as white-tailed deer, fox and skunks would be found in the area, as well as an occasional black bear using the river as a movement corridor. Numerous small mammal and bird species could be found nearby, as well as nesting birds. We believe that minimal "living with wildlife" issues should be conveyed as a development covenant to future landowners in this subdivision, in order to help them deal with and avoid potential wildlife issues.

Attached is our recommended version of such covenants. Thank you for providing the opportunity for MFWP to comment on this subdivision.

Sincerely,

Mack Long  
Regional Supervisor

ML/sr

Enclosure: "Living with Wildlife" development covenants

C: Ravalli County Planning Department, Attn: Renee Van Hoven, 215 S. 4 St., Ste. F, Hamilton, MT 59840

**Development Covenant for Super One (minor) commercial subdivision, recommended by Montana Fish, Wildlife & Park; Missoula; June 1, 2006**

**Section \_\_: Living with Wildlife**

Owners and/or renters of lots in this commercial subdivision (hereafter, "residents") must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage and properly storing garbage and other potential attractants. Residents must be aware of potential problems associated with the presence of wildlife such as deer, black bear, fox, raccoon, skunk, and other species. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help owners "live with wildlife." Alternatively, see FWP's web site at [www.fwp.mt.gov](http://www.fwp.mt.gov).

The following covenants are designed to help minimize problems that residents could have with wildlife, as well as helping residents protect themselves, their property and the wildlife that Montanans value.

- a. Residents must be aware of the potential for **vegetation damage by wildlife, particularly from deer** feeding on landscaping--green lawns, flowers, ornamental shrubs and trees--in this subdivision. Residents should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, and other wildlife.
- c. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.



Montana Department of Transportation

Jim Lynch, Director  
Brian Schweitzer, Governor

Missoula District Office  
2100 W Broadway  
PO Box 7039  
Missoula, MT 59807-7039

**RECEIVED**

MAY 31 2006  
11-06-05-847  
Ravalli County Planning Dept.

May 30, 2006

Kristin Smith  
Land Use Planner  
WGM Group, Inc.  
P.O. Box 16027  
Missoula, MT 59808-6027

**EXHIBIT A-4**

Subject: SuperOne Subdivision – Ravalli County

Kristin, thanks for writing the Montana Department of Transportation (MDT) regarding the proposed minor commercial subdivision "SuperOne". The proposed subdivision is located on the corner of US Highway 93 and State Secondary 269 (Eastside Highway) in Ravalli County.

My comments are as follows:

- Current access to the site is via the East Side Highway (State Secondary Highway 269).
- Additional access to 269 may or may not be granted. Existing, or modification of existing access should be used for all lots.
- Per the enclosed Right of Way agreement, there will be a right in / right out approach constructed (with highway project NH 7-1(83)59 F, Victor – N of Stevensville Wye) at highway station 131+94 for access to US 93 for the subject property. The access will be located at the southwest property corner. Internal site plans should be designed so all lots can benefit from this access.
- No additional access will be approved to US 93.
- Per the enclosed Right of Way agreement, the existing drain field will need to be relocated outside of the new state right-of-way.

Should you have any further questions, please give me a call at (406) 523-5800.

Sincerely,

Glen Cameron  
Missoula District Traffic Engineer

copies: Dwane Kailey, Missoula District Administrator  
Greg Pizzini, State Access Manager  
Ravalli County Planning, 215 South 4<sup>th</sup> Street; Suite F, Hamilton, MT 59840

An Equal Opportunity Employer

STATE OF MONTANA DEPARTMENT OF TRANSPORTATION  
(hereinafter referred to as Department or MDT)

RIGHT-OF-WAY AGREEMENT

Q:\RW-STD:RWN:28 (Rev. 11/19/2003)

PE PROJECT ID:

Victor - Florence  
Victor - N of Stevensville Wye  
DESIGNATION

RW PROJECT ID: NH 7-1(83)59F

Ravalli  
COUNTY

UNIFORM PROJECT No.: 2016-083

Parcel	From Station	To Station	Subdivision	Section	Township	Range
1-86	131+91	133+90	Tract 1, COS 5512-TR	21	9N	20W

List Names & Addresses of the Grantors

Ronald B. McIntire and Joanne F. McIntire and John C. Young  
5588 North Wall Street, Suite B  
Spokane, WA 99205  
777-7300

- In consideration of the payments herein set forth the receipt and sufficiency of which are hereby acknowledged by the Grantors and the specific agreements to be performed by the parties hereto and written in this agreement, the parties bind themselves to the terms and conditions stated herein. This Agreement may not be enlarged, modified or altered except by a written document that specifically refers to this Agreement and is signed by the authorized representatives of each of the parties to this Agreement. No verbal representations or agreements shall be binding upon either party. Grantors certify that any encumbrances on the property are shown on this agreement. This agreement is effective upon execution by the Acquisition Manager or a designated representative, and possession of the property is granted to the Department when it sends the payment(s) agreed to below. Grantors contract that they will, on Department's request, execute a deed and/or easement required by the Department for all real property agreed to be conveyed by this agreement.
- COMPENSATION FOR LAND AND IMPROVEMENTS (List acreage and improvements to be acquired.)  
0.081 ha (0.20 acre) in fee  
Landscaping  
Access Control
- OTHER COMPENSATION:  
Repair irrigation system  
Redesign and relocate an existing drainfield and replacement drainfield site  
(to be performed by Grantors)
- TOTAL COMPENSATION (includes all damages to the remainder):
- IT IS UNDERSTOOD AND AGREED THE STATE SHALL MAKE PAYMENT AS FOLLOWS:
- A warrant in the amount of \$50,350.00 to be made payable to Ronald B. McIntire and Joanne F. McIntire and John C. Young, less any amount required by the Mortgagee as hereinafter set forth, and mailed to 5588 North Wall Street, Suite B, Spokane, WA 99205
- For and in consideration of the compensation shown herein, the Grantors hereby grant, bargain, sell and convey all rights of ingress and egress, including all existing, future or potential easements of access, light and air except as may be stated on the Bargain and Sale Deed.
- Permission is hereby granted the State to enter upon the Grantors' land, where necessary and for the purpose described as follows:

A. Station 131+94

Build 12.0 m (40') joint-use commercial approach  
RIGHT-IN, RIGHT-OUT ONLY

RT SOP

Grantors shall maintain, at their sole expense, all private and farm field accesses identified in this agreement. Accesses will be maintained in a condition that is satisfactory to MDT. Grantors further agree to conduct maintenance activities in a prudent manner providing for the safe and continued operation of thru traffic on the

(Continued from Previous Page)

highway. Physical changes in size or location of any accesses cannot be made without first obtaining an approved approach permit from MDT.

All drainage facilities within the existing right-of-way/easement associated with any accesses, i.e., approach culverts, drainage ditches, will be maintained by MDT at MDT's sole expense. MDT will not maintain any drainage facilities installed solely for the perpetuation of private irrigation waters.

9. It is understood and agreed by and between the parties hereto that included in the amount payable under "Other Compensation" herein is payment in full to compensate the Grantors for the expense of performing the following work: Repair irrigation system on or before July 1, 2005 and relocation and redesign northern drainfield.
10. The intent of this section is to set forth the terms and conditions by which the Grantors may continue to utilize an existing septic drainfield and replacement drainfield site within the right-of-way being acquired.
  - a. The parties acknowledge that an existing septic drainfield and replacement site, serving the subject property, partially occupy real estate being acquired by this agreement.
  - b. MDT agrees that it shall permit the existing drainfield to encroach upon the acquired right-of-way. Grantors understand that the replacement site, which will be partially located in the right-of-way, will no longer be available to be used as a replacement site.
  - c. Grantors agree that they have been compensated for relocating the existing drainfield and replacement site outside of the new right-of-way. Grantors understand that at such time as the existing drainfield reaches the expiration of its useful life or for any reasons fails or requires repair, replacement or reconstruction, then Grantors will bear the entire cost of relocating the drainfield and replacement site outside of the right-of-way. Nothing contained herein shall prevent Grantors from moving the drainfield and replacement site from the right-of-way before the happening of these contingencies.
  - d. At such time as connection to the city sewer system becomes available, Grantors shall connect thereto at their expense and the encroachment permit shall be revoked.
  - e. Grantors agree to contact MDT and secure any permits necessary for any maintenance activities associated with the drainfield if such activities are undertaken within highway right-of-way.
  - f. Grantors further agree that they, jointly and severably, shall defend, indemnify and hold harmless MDT, its employees and its agents, from and against any and all claims, liabilities, demands, causes of action, and judgments, including the costs of defense and reasonable attorney fees, arising from the drainfield remaining in the right-of-way or being moved by Grantors outside the right-of-way, or being removed by MDT should Grantors fail to do so.
  - g. If the Grantors fail to comply with the terms and conditions of this section, or if the Grantors' performance under this section fails to conform to the specifications herein, MDT may revoke the encroachment permit issued pursuant hereto.
  - h. In the event that Grantors fail to relocate the drainfield outside the right-of-way at such time as the encroachment permit is revoked, then MDT may remove the existing drainfield outside of the right-of-way.
11. The obligations herein assumed by the Grantors are joint and several and binding upon the heirs and assigns of the Grantors or any of them.
12. The agreement will continue until such time as both parties mutually agree in writing to changes.
13. Any action or judicial proceeding for enforcement of the terms of this Agreement shall be instituted in the courts of Montana and shall be governed by the laws of Montana.
14. This Agreement shall become effective upon the date of signature of all parties.

The property is encumbered by a TRUST INDENTURE as follows:

DATED 06-12-1998

TRUSTEE Wells Fargo Bank, National Association ADDRESS \_\_\_\_\_

BENEFICIARY Wells Fargo Bank, National Association ADDRESS \_\_\_\_\_

AMOUNT \$3,000,000.00 FILED 07-06-1998 BOOK 175 PAGE 671

REMARKS:

Grantors understand that, in the event that the beneficiary refuses to grant a partial release of the trust indenture, a condemnation may be commenced against the beneficiary and the sum of \$11,497.00 may have to be deposited with the clerk of court.

(Continued from Previous Page)

Approved as to all NSOP Items  
(Must be signed if applicable)

Signature

Date

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT ON THE DATES SHOWN:

We understand that we are required by law to provide our correct taxpayer identification number(s) to the Montana Department of Transportation and that failing to comply may subject us to civil and criminal penalties. We certify that the number(s) below is/are our correct taxpayer identification number(s).

<u>Ronald B. McIntire</u>	<u>27 April 2005</u>	_____
Signature: Ronald B. McIntire	(Date)	Tax ID No.
<u>Joanne F. McIntire</u>	<u>27 April 2005</u>	_____
Signature: Joanne F. McIntire	(Date)	Tax ID No.
<u>John C. Young</u>	_____	_____
Signature: John C. Young	(Date)	Tax ID No.
Signature: _____	(Date)	Tax ID No.

RECOMMENDED FOR APPROVAL:

<u>Ronald E. Olson</u>	<u>5-4-05</u>
Ronald E. Olson - Olson Land Services	(Date)
<u>Robert J. Peccia</u>	<u>5-4-05</u>
Consultant - Robert Peccia & Associates	(Date)

APPROVED FOR AND ON BEHALF OF DEPARTMENT:

<u>Randy A. Taint</u>	<u>11 May 05</u>
R/W Supervisor	(Date)
<u>Randy A. Taint</u>	<u>11 May 05</u>
Acquisition Manager	(Date)





Missoula District Office  
2100 W Broadway  
PO Box 7039  
Missoula, MT 59807-7039

## EXHIBIT A-5

August 31, 2007

John Lavey  
Ravalli County Planning  
215 South 4<sup>th</sup> Street, Suite F  
Hamilton, MT 59840

RECEIVED

SEP 04 2007  
IC-07-09-1129  
Ravalli County Planning Dept.

Subject: SuperOne Subdivision – Ravalli County

John, thanks for writing the Montana Department of Transportation (MDT) regarding the proposed minor commercial subdivision "SuperOne". The proposed subdivision is located on the corner of US Highway 93 and State Secondary 269 (Eastside Highway) in Ravalli County.

For your convenience I have enclosed my initial comments dated May 30, 2006.

I have no additional comments or concerns at this time.

Sincerely,

Glen Cameron  
Missoula District Traffic Engineer

## SUBDIVISION APPLICATION PACKET CHECKLIST - Water and Sanitation Information Per MCA 76-3-622

Name of Subdivision: *SUPER ONE ADDITION***RECEIVED**

Subdivider/Landowner Name(s)

**EXHIBIT A-6**

JUN 29 2007

160700-832  
Ravalli County Planning Dept.Consultant Name: *W6M*Date Received: *6-28-07*

Sufficiency Review Due Date:

Yes	No	N/A	Item	Additional Information/Staff comments
-----	----	-----	------	---------------------------------------

(1) Unless the land division is excluded from review under 76-4-125(2), the subdivider shall submit to the information listed below for proposed subdivisions that will include new water supply or wastewater facilities.

			Provide two copies of the following information with a check paid to RCEHD for their \$50.00 sufficiency review fee.	
			<b>(a) Vicinity Map or Plan</b>	
			(i) The location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:	
			(A) flood plains	
			(B) surface water features	
			(C) springs	
			(D) irrigation ditches	
			(E) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater treatment systems	
			(F) for parcels less than 20 acres, mixing zones identified as provided in subsection (1)(g);	
			(G) the representative drainfield site used for the soil profile description as required under subsection (1)(d)	
			(ii) The location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities	
			<b>(b) A description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by DEQ.</b>	
			<b>(c) A drawing of the conceptual lot layout at a scale no smaller than 1" = 200' that shows all information required for a lot layout document in rules adopted by the DEQ pursuant to 76-4-104.</b>	

Stevensville Rural Fire District  
P.O. Box 667  
Stevensville, MT 59870

RECEIVED  
OCT 04 2007  
IC-07-10-1277  
Ravalli County Planning Dept.

October 3, 2007

## EXHIBIT A-7

Ravalli County  
Planning Board  
Attn: Karen Hughes  
215 South 4<sup>th</sup>, Suite F  
Hamilton, MT 59840

Re: Super One Addition  
Stevensville, MT

Dear Ms. Hughes,

We have reviewed the above referenced property in regard to access and water. We found access to be adequate and we require either a water system in accordance with the uniform fire code or a \$500.00 per lot voluntary contribution. We have no objections to the variance that has been proposed for this sub-division.

Sincerely,



Bill Perrin, Chief  
Stevensville Rural Fire District

BP:slm



# MONTANA HISTORICAL SOCIETY

225 North Roberts ♦ P.O. Box 201201 ♦ Helena, MT 59620-1201  
♦ (406) 444-2694 ♦ FAX (406) 444-2696 ♦ [www.montanahistoricalsociety.org](http://www.montanahistoricalsociety.org) ♦

September 4, 2007

Planning Department  
215 South 4<sup>th</sup> Street, Suite F  
Hamilton MT 59840

**RECEIVED**

SEP 05 2007  
IC-07-09-1134  
Ravalli County Planning Dept.

## EXHIBIT A-8

RE: SUPER ONE ADDITION MINOR SUBDIVISION, RAVALLI COUNTY. SHPO  
Project #: 2007083104

To Whom It May Concern:

I have conducted a cultural resource file search for the above-cited project located in Section 21, T9N R20W. According to our records there have been no previously recorded sites within the designated search locales. The absence of cultural properties in the area does not mean that they do not exist but rather may reflect the absence of any previous cultural resource inventory in the area, as our records indicated none.

It is SHPO's position that any structure over fifty years of age is considered historic and is potentially eligible for listing on the National Register of Historic Places. If any structures are to be altered and are over fifty years old we would recommend that they be recorded and a determination of their eligibility be made.

We feel that there is a low likelihood cultural properties will be impacted. We, therefore, feel that a recommendation for a cultural resource inventory is unwarranted at this time. However, should cultural materials be inadvertently discovered during this project we would ask that our office be contacted and the site investigated. Thank you for consulting with us.

If you have any further questions or comments you may contact me at (406) 444-7767 or by e-mail at [dmurdo@mt.gov](mailto:dmurdo@mt.gov).

Sincerely,

Damon Murdo  
Cultural Records Manager

File: LOCAL/SUBDIVISIONS/2007



**RECEIVED**

NOV 09 2007

1007-11-1440  
Ravalli County Planning Dept

**David Ohnstad**

**From:** David Ohnstad  
**Sent:** Thursday, November 08, 2007 12:33 PM  
**To:** John Lavey  
**Subject:** FW: super one variance request

**EXHIBIT A-9**

John --

We will accept the design submitted for this project as meeting the adopted county roadway design standards. While this is not a typical "roadway", the design incorporates the same design criteria as a roadway. The design materials that were submitted to the Road & Bridge Department will be forwarded to your office.

David

---

**From:** David Ohnstad  
**Sent:** Monday, August 27, 2007 9:54 AM  
**To:** Renee Van Hoven  
**Cc:** 'JTitchbourne@wgmgroup.com'  
**Subject:** super one variance request

Renee -

I have reviewed the request for variance (correspondence of 07 August) for the Super One subdivision project in Stevensville and have discussed the issue with Julie Titchbourne of the WGM group. I believe it would be reasonable to have Julie submit an abbreviated drainage plan identifying the direction of stormwater flow, approximate grade(s) and collection and discharge point(s), along with a typical or design (pavement structure) cross-section of the parking/driveway areas.

Record drawings would be preferred, original design drawings would be acceptable.

With that information submitted for review, we would not oppose the granting of the requested variance.

Regarding the five variance criteria, we would agree with #1, #2 and #5 and have no comment on #3 and #4.

David

11/8/2007



**ENGINEERING  
SURVEYING  
PLANNING**

3021 Palmer • P.O. Box 16027 • Missoula, Montana 59808-6027

(406) 728-4611  
FAX: (406) 728-2476  
wgmgroup.com

October 15, 2007

## EXHIBIT A-10

David Ohnstad  
Road and Bridge Department Superintendent  
Ravalli County Road Department  
244 Fairgrounds Road  
Hamilton, MT 59840

**REVISED**

RE: Super One Subdivision  
Variance Request  
Requested Additional Information

Dear Mr. Ohnstad:

Please accept our apologies, the submittal dated October 12, 2007 was sent without the proper attachments and should be disregarded. Please replace the package with the enclosed submittal.

Per your email request (copy enclosed), we are forwarding the following additional information in support of our variance request to provide access "roads" meeting Ravalli County road standards:

- 1) A lot layout showing the approximate topography, stormwater flow direction, and discharge points for stormwater. The collection area is the entire subdivision site; parking lots, rooftops, and landscaped areas.
- 2) The original grading and paving design for the existing parking lot showing the asphalt section.
- 3) The design for the infiltration basin, which was recently constructed.

Thank you for your assistance with this project.

Sincerely,  
WGM Group, Inc.

Julie Titchbourne, P.E.  
Principal Engineer

Encl.

cc: John Lavey(w/Encl.)

## EXHIBIT A-11

David Ohnstad

**From:** David Ohnstad  
**Sent:** Monday, August 27, 2007 9:54 AM  
**To:** Renee Van Hoven  
**Cc:** 'JTitchbourne@wgmgroup.com'  
**Subject:** super one variance request

**RECEIVED**

AUG 27 2007  
IC-07-08-1079  
Ravalli County Planning Dept.

Renee -

I have reviewed the request for variance (correspondence of 07 August) for the Super One subdivision project in Stevensville and have discussed the issue with Julie Titchbourne of the WGM group. I believe it would be reasonable to have Julie submit an abbreviated drainage plan identifying the direction of stormwater flow, approximate grade(s) and collection and discharge point(s), along with a typical or design (pavement structure) cross-section of the parking/driveway areas.

Record drawings would be preferred, original design drawings would be acceptable.

With that information submitted for review, we would not oppose the granting of the requested variance.

Regarding the five variance criteria, we would agree with #1, #2 and #5 and have no comment on #3 and #4.

David

8/27/2007

## EXHIBIT A-12

August 7, 2007

**received**  
8-10-07

David Ohnstad  
Road and Bridge Department Superintendent  
Ravalli County Road Department  
244 Fairgrounds Road  
Hamilton, MT 59840


RE: Super One Subdivision  
Variance Request

Dear Mr. Ohnstad:

Enclosed is a variance request that we will include in the above-referenced subdivision application. As discussed, this variance addresses the case of two commercial lots accessing from the existing Super One parking lot. A cross-easement exists on the parent parcel such that access is perpetually allowed from the parking lot to each of the two new, proposed lots. The paving design for the existing parking lot was a three-inch surfacing course asphalt over a six-inch crushed base course. Although we did not observe the construction of the parking lot in 1998, site observation leads to a conclusion that it is functioning adequately.

Thank you for your assistance with this project.

Sincerely,  
WGM Group, Inc.



Julie Titchbourne, P.E.  
Project Engineer

Encl.





**ENGINEERING  
SURVEYING  
PLANNING**

3021 Palmer • P.O. Box 16027 • Missoula, Montana 59808-6027

(406) 728-4611  
FAX: (406) 728-2476  
wgmgroupp.com

October 15, 2007

**RECEIVED**

David Ohnstad  
Road and Bridge Department Superintendent  
Ravalli County Road Department  
244 Fairgrounds Road  
Hamilton, MT 59840

OCT 16 2007  
IC-07-10-1319  
Ravalli County Planning Dept.

**REVISED**

**EXHIBIT A-13**

RE: Super One Subdivision  
Variance Request  
Requested Additional Information

Dear Mr. Ohnstad:

Please accept our apologies, the submittal dated October 12, 2007 was sent without the proper attachments and should be disregarded. Please replace the package with the enclosed submittal.

Per your email request (copy enclosed), we are forwarding the following additional information in support of our variance request to provide access "roads" meeting Ravalli County road standards:

- 1) A lot layout showing the approximate topography, stormwater flow direction, and discharge points for stormwater. The collection area is the entire subdivision site; parking lots, rooftops, and landscaped areas.
- 2) The original grading and paving design for the existing parking lot showing the asphalt section.
- 3) The design for the infiltration basin, which was recently constructed.

Thank you for your assistance with this project.

Sincerely,  
WGM Group, Inc.

Julie Titchbourne, P.E.  
Principal Engineer

Encl.

cc: John Lavey(w/Encl.) ✓

Conversation with David Ohnstad, Ravalli County Road and Bridge Department Supervisor, November 8, 2007

John Lavey spoke with David Ohnstad regarding the Super One Addition subdivision, specifically regarding the variance from section 5-4-5(b). John asked David how the structural integrity of a chip sealed asphalt surface over a gravel road compares to that of a paved road including base materials. David said that, while a chip sealed surface will withstand wear and tear greater than a plain gravel road, it does not last as long as a paved road. Once the chip seal surface cracks, water can infiltrate, and the freeze-thaw cycle perpetuates the cracking. While chip sealing consists of gravel particles mixed in a substrate of a bituminous liquid, paving typically consists of a specific sub-base as well as a couple inches of asphalt concrete.

**EXHIBIT A-1<sup>4</sup>**

Renee Van Hoven

---

From: Skovlin, Jay - Hamilton, MT [Jay.Skovlin@mt.usda.gov]  
Sent: Tuesday, August 21, 2007 11:41 AM  
To: Renee Van Hoven  
Subject: Farmlands of Local Importance

## EXHIBIT A-15

Hi Renae,

Sorry I haven't gotten back to you sooner. The last couple of weeks have been very busy. My computer crashed on top of it all....

I have a copy of the letter from the Bitterroot Conservation District and the NRCS State Conservationist approving the criteria for Ravalli County. It is hardcopy, so let me know if you would like to have a copy on file and I will get it to you.

The farmland classification heirarchy is as follows:

Prime farmland  
Prime farmland if irrigated  
Farmland of Statewide Importance  
Farmland of Local Importance

The criteria lessens for each class making farmland of local importance the easiest class to get into. Farmland of local importance and any higher farmland class triggers eligibility for the Farm and Ranchlands Protection Program (FRPP), which is a program offered by the NRCS to help land owners protect their land through the use of conservation easements.

On January 9th, 2007, Area Resource Soil Scientist, Neal Svendsen, and the staff of the Bitterroot Valley Soil Survey met with the Bitterroot Conservation District and agreed on the proposed criteria for farmlands of local importance. Lake, Mineral, Missoula, and Sanders counties have all set up criteria for locally important farmland. So the purpose of meeting with the conservation district was to review the criteria from these other counties (especially Missoula County) to see if the yield criteria were appropriate for Ravalli County. Concerns were raised by the conservation district board members that this designation not be used in the newly revised subdivision regulations. The intent of this designation of the soil map units is mostly to allow for eligibility of these lands for the FRPP and not that it be used in any way in the subdivision review process. To my knowledge it is not used in this fashion by any of the above mentioned counties that have already approved the designation.

Farmlands of local importance identifies lands that may have the next best potential for agricultural uses (farming or grazing) beyond what is already designated as prime or statewide. By looking at the yield criteria, you will notice that the thresholds are fairly low (especially for grazing) for getting into this class.

The criteria is as follows:

The soil map unit is not already designated as Prime Farmland, Prime Farmland if Irrigated, or Farmland of Statewide Importance, and has one or more of the following:

1. Soil map units that have 50% or more named components meeting prime or statewide criteria and/or
2. Soil map units that have slopes less than or equal to 15%, are not frequently flooded, are poorly drained or better, and where at least 50% of the named components meet at least one of the following minimum yields:
  - a. Irrigated alfalfa hay yields > 4.0 tons/ac.
  - b. Irrigated grass hay yields > 3.0 tons/ac.
  - c. Non-irrigated grass hay yields > 1.0 ton/ac.
  - d. Irrigated alfalfa-grass hay yields > 3.5 tons/ac.
  - e. Irrigated pasture > 5.0 AUM.
  - f. Non-irrigated pasture > 1.0 AUM.

I hope this helps clear up some confusion on this designation. Please let me know if you have any further questions about the soil survey.

SEP 13 2005

**H**amilton  
Rural Fire  
DISTRICT

Ravalli County Planning Dept.

IC-05-09-1707

Post Office Box 1994 Hamilton, MT 59840**FIRE PROTECTION STANDARDS**

The following Fire Protection Standards were adopted on September 6, 2005.

The Hamilton Rural Fire District has established the Fire Protection Standards for proposed new subdivisions within the district. The requirements were established with consideration for the life and safety of the residents of the district, as well as the volunteer firemen who protect the district, and to mitigate possible harm to the general public.

In establishing the requirements, emphasis was given to the NFPA 1, Chapter 18, The Ravalli County Subdivision Regulations, The Ravalli County Road Department Standards, and the 1993 Fire Protection Guidelines for Wildland Residential Interface Development. These Publications and Articles establish rules for dealing with fire apparatus access roads, fire department access to buildings, water supplies for fire protection, installation and maintenance of fire - protection systems and clearance of brush and vegetative growth from roadways.

Consideration was also given to Section 23.7.105 Administrative Rules of Montana, which is adopted pursuant to authority of 50-3-102 (2) and 50-3-103, MCA, which incorporates by reference the NFPA 1, Chapter 18, and establishes a minimum fire prevention code for Montana.

Every effort has been made to use words and phrases consistent with the definitions given in the above-mentioned publications.

**ACCESS ROADS**

The Fire District requires that all roads and bridges meet or exceed, and are maintained to, the requirements of the NFPA 1, Chapter 18, which reads in part:

**18.2.2.3.1 Required Access.** Fire Apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet (45720 mm) from fire apparatus access as measured by an approved route around the exterior of the building or facility.

**18.2.2.5.1 Dimensions.** Fire apparatus access roads shall have an unobstructed travel surface not less than 22-feet in width, which may include a two foot shoulder on each side of an 18-foot wide travel surface, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

**18.2.2.5.2 Surface.** Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

**18.2.2.5.6 Grade.** The gradient for a fire apparatus access road shall not exceed the maximum approved by the fire chief. The Chief accepts the Resolution approved by the Board of County Commissioners of Ravalli County which sets the maximum acceptable road grade at ten percent (10%).

**EXCEPTIONS:** 1. When buildings are completely protected with an approved automatic sprinkler system, the provisions of NFPA 1, Chapter 18, may be modified by the Fire Chief.

**While not all parts of the NFPA 1 are listed above it is the responsibility of the Subdivision Developer to construct and maintain all fire apparatus access roads to comply with all aspects of the NFPA 1 and Ravalli County Standards.**

**SPECIFIC REQUIREMENTS:**

The Fire District requests that all lots (premises) meet the requirements of NFPA 1, Section 18.2.2.5.7 as soon as construction begins with a temporary or permanent address posted at the premises driveway and upon occupancy with a permanent address posted in accordance with the above NFPA 1.

**BUILDING STANDARDS**

The Fire District will request that all buildings be built to IRBC codes in order to protect persons and property, and that all subdivisions shall be planned, designed, constructed and maintained so as to minimize the risk of fire and to permit effective and efficient suppression of fires.

**WATER SUPPLY**

The water supply required by the NFPA 1 for one or two family dwellings, not exceeding 3,600 square feet, requires a flow rate of 1,000 G.P.M. The code does not specify the duration of flow for one and two family dwellings, however the Fire Protection Guidelines for Wildland Residential Interface Development and the Ravalli County Subdivision Regulations list the minimum water supply of 2,500 gallons per lot, or 1,000 gallons per minute flow from municipal water systems.

In order to obtain and maintain a Class 5 ISO rating, the Hamilton Volunteer Fire Department is required to flow 500 gallons and maintain this flow for 120 minutes. By ISO standards this is usually sufficient to protect single-family dwellings with adequate spacing between structures. ISO uses the following flow rates, from their *Guide for Determination of Needed Fire Flow*, Chapter 7, when considering adequate coverage for density:

Distance Between Buildings	Needed Fire Flow
More than 100'	500 gpm
31 - 100'	750 gpm
11 - 30'	1,000 gpm
10' or less	1,500 gpm

The Hamilton Rural Fire District will use these fire flows for all subdivisions of single-family dwellings with less than 10 lots. All developments of single-family dwellings with 10 or more lots require a minimum of 1,000 gallons per minute. All commercial, industrial, or multi-family dwellings requiring higher fire flows will have to be engineered by the developer to determine needed fire flows.

Any development in the rural area, with density requiring more than the 500 gallons per minute being supplied by the Hamilton Volunteer Fire Department, will be requested to supply the difference. The water supply installation, upkeep and maintenance will be the responsibility of the Subdivision, pursuant to NFPA 1, Section 18.3.5.

The Fire District realizes the financial burden of installing and maintaining a water supply and or storage tanks capable of providing the required water flows and is willing to accept a voluntary contribution payment of \$500.00 (Five Hundred Dollars) per lot, in lieu of the water supply required by the NFPA 1. Payment of \$500.00 per lot will be due upon approval of the subdivision. The Fire District will use funds paid in lieu of the water supply required by the NFPA 1 to maintain or improve fire protection within the district, for the development of water supplies, or capital improvements.

**EXCEPTIONS: 1.** When all buildings in the subdivision are completely protected with an approved automatic sprinkler system, the above listed water supply and in lieu of payment schedule may be reduced by 50% (fifty percent). The Subdivision Covenants must state that "All residences constructed within the subdivision will be protected with an approved automatic sprinkler system." Payment for the reduced amount of \$250.00 per lot will be accepted at the time the Subdivision is approved. If at any time any residence is built within the subdivision without an approved sprinkler system, all lots will be subject to an additional \$250.00 payment, regardless of whether they have sprinklers in residences located on them or not.

DEPARTMENT OF ENVIRONMENTAL QUALITY

PERMITTING & COMPLIANCE DIVISION

Community Services Bureau  
Public Water Supply Section

MARC RACICOT, GOVERNOR

Exhibit A-17



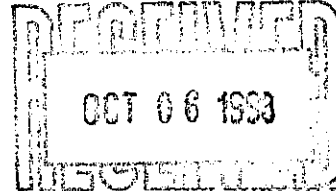
STATE OF MONTANA

Phone: (406)444-4400  
Fax: (406)444-1374

Metcalf Building  
1520 E Sixth Ave  
PO Box 200901  
Helena, MT 59620-0901

September 22, 1998

SUPER ONE FOOD STORE  
KEN CRISP  
PO BOX 2525  
MISSOULA MT 59806



PUBLIC WATER SUPPLY ID: 04004  
COUNTY CODE: 081  
CLASS: P

DRINKING WATER REGULATIONS FOR NON-TRANSIENT NON-COMMUNITY WATER SUPPLIES

This letter is to inform you that your public water supply system has been classified a "Non-Transient Non-Community" supply. We have assigned the Public Water Supply ID Number 04004 to your water system.

Enclosed is a summary of "Drinking Water Regulations for Non-Transient Non-Community Water Supplies". Please acquaint yourself with the rules and regulations.

A list of the Certified Montana Laboratories is included in the Non-Transient Non-Community Drinking Water Regulations. *It is the responsibility of the water system owner(s) to select a lab certified to perform microbiological analysis and to have the laboratory send sterile containers on a monthly basis. The laboratory will send you the necessary bottles to do the required sampling and a copy of the analysis report to the Permitting & Compliance Division. If sampling containers are not received, please notify your lab at once. Please be sure to inform the laboratory of the State assigned Public Water Supply Identification Number for your water system. This number must be included on your bacteriological laboratory form for proper credit to your system.*

If you have any questions don't hesitate to call me at 444-2429.

Sincerely,

A handwritten signature in cursive script that reads "Sara S. Williamson".

Sara S. Williamson  
Public Water Supply Section  
Permitting & Compliance Division

Enclosure: Non-Transient Non-Community Packet

cc: Ravalli County Sanitarian  
Shirley Quick